IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 12509 of 2004

Between:

Lt.Col.(Retired) N.K.Yadav, S/o Sri H.M.Yadav,
R/o 506 Mansarovar Heights, Hashmatpet, Secunderabad.

..... PETITIONER

AND

1.The Chairman, Secunderabad Cantonment Board,
C/o Andhra Sub Area, Secunderabad.
2.The Chief Executive Officer, Secunderabad Cantonment Board,
Secunderabad.
3. The Secretary, A.P.State Pollution Control Board,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, orders or a Writ, more appropriately one in the nature of a Writ of Mandamus and declare the action of the 1st and 2nd respondents of collecting night soil, refuge, solid wastes from the entire Secunderabad Cantonment Area, through their contractors, transporting these wastes in open trucks to open area in the Alwal Municipality area surrounding newly coming up Mansarovar Heights Complex and other multi-storied human habitats as also weaker section colonies like Indira Nagar and Rajeev Gandhi Nagar falling under Alwal PS and Municipal Limits, dumping it there and then putting fire to it in open thus causing AIR POLLUTION as being against all the anti-pollution laws, rules and regulations, harmful to the lives of the inhabitants of the area including the petitioner herein and his family and thus violative of their Right to Life guaranteed under Article 21 of the Constitution of India

and therefore ULTRA VIRES.

For the Petitioner: Mr.CAPT.K.M.SAXENA

For the Respondents 1& 2 : MR.DEEPAK BHATTACHARJEE

Central Government Standing Counsel.

For Respondent No.3 : Mr.S.V.Bhatt, Standing Counsel for

A.P. Pollution Control Board.

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

This Writ Petition is filed by Lt. Col. N.K.Yadav, who is retired, and resident of Manasarovar Heights, Hashmatpet, Secunderabad, in public interest. Petitioner has highlighted in the petition the inaction on the part of the respondents in maintaining hygienic conditions in and around the locality and colonies like Indiara Nagar and Rajeev Gandhi Nagar, Manasarovar Heights complex falling under Alwal Police Station and municipal limits. It is alleged that respondents are collecting night oil, refuge and solid wastes from the entire Secunderabad area through their contractors and transporting the waste in open trucks to open area in the Alwal Municipality area surrounded by colonies and dumping it there and then putting the same to fire in open, thus, causing air pollution. Otherwise also, dumping of such wastes near residential colonies is harmful to the lives of neighbours and violative of their Right to Life.

Petitioner has referred to the provisions of the Cantonment Act, 1924. The Cantonment is charged with the duty and responsibility to maintain health and hygiene, sanitation, water supply, sewage and solid waste disposal management and control of water and air pollution, and, must ensure proper solid waste disposal and control of water and air pollution. Along with the papers submitted by the petitioner, a representation from the residents of Indiranagar Colony is also attached. They have pleaded that despite their having approached the Chairman, Cantonment

Board, no steps have been taken by the respondents to have the disposal of garbage at a place, which would not cause any pollution.

Respondents 1 and 2, in their affidavit in reply, states that the Cantonment Board acquired the trenching ground land comprising of 32.72 acres on 18.8.1937 from the Government of Hyderabad for trenching purposes. A portion of the land situated in southern corner admeasuring approximately four acres was not suitable for trenching and the same was left to the Government in 1939. Remaining area is under the peaceful possession of Cantonment Board since 1937 and is being utilized for dumping of garbage and other solid waste. Suitable measures are taken by the Cantonment Board to prevent pollution from trenching ground by levelling the garbage and other solid waste with bulldozers. The Board has hired bulldozers from M/s A.P.Agro Industries Development Corporation for the purpose of levelling the garbage by spending considerable amount. Further stand of the Cantonment Board is that Manasarovar Heights and other colonies came up around the trenching ground knowing fully well that there was trenching ground, which area was being utilized for dumping garbage and solid wastes. Having purchased the land and settled around the trenching ground knowing fully well that the same was meant for disposal of the garbage, petitioner and other similarly situated persons cannot object to the action of the respondents in utilizing the area for dumping garbage and solid wastes.

The Andhra Pradesh Pollution Control Board has also filed its report after inspection.

We have heard the learned counsel for parties.

May be that, around trenching ground, several colonies have come up knowing fully well of the existence of the dumping yard, but, that will not absolve the authorities from ensuring proper solid waste management, which has to be done on scientific basis. Insofar as land fill sites are concerned, authorization thereof is notified under Municipal Solid Waste (Management and Handling) Rules 2000, and, the Pollution Control Board has to ensure that in case situation, like the present one, is such which would require issuance of any directions, the same shall be issued in accordance with law on the subject after hearing all concerned so that environment is kept clean and whatever measures are required to be taken to avoid air and water pollution, the same are to be undertaken by the authorities concerned. It is stated

that the Pollution Control Board Officials inspected the garbage dumping yard at Hashmathpet village, Balanagar Mandal on 17.8.2004 and made their observations in their report of inspection. It is also stated that in view of what the officials observed, the Cantonment Board may have to be called for legal hearing for taking further action.

Considering the scope and ambit of Writ Petition, we dispose it of with direction to the Andhra Pradesh Pollution Control Board, Hyderabad to hear the concerned parties, namely, Secunderabad Cantonment Board, residents of Manasarovar heights colony and other adjoining colonies of dumping yard, and, on hearing them, whatever directions are thought fit and proper, be issued in accordance with law, and, in case, the directions are not complied with, to take such further action as is permissible under law. The entire exercise must be done with one aim that there is no air pollution in and around the area. Steps will be taken to hear the concerned within a period of six weeks from the date of the receipt of a copy of this order and appropriate directions be issued to be complied within a reasonable time.

The Writ Petition stands disposed of. No costs.

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DEVINDER GUPTA, C.J.

31.8.2004.

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C.V.RAMULU, J.

VR.

To

1.The Chairman, Secunderabad Cantonment Board,

C/o Andhra Sub Area, Secunderabad.
2.The Chief Executive Officer, Secunderabad Cantonment Board,
Secunderabad.
3. The Secretary, A.P.State Pollution Control Board,
Hyderabad.

4. Two CD copies.